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Via Inter-office Mail

December 23, 2009

Clinton Fuchs, Esq.
United States Attorney's Office
District of Maryland, Northern Division
36 South Charles Street, Fourth Floor
Baltimore, Maryland 21201

Re: *United States v. Lewis Kevin Lucas*
Case No. RDB-09-0560

Dear Mr. Fuchs:

Discovery materials indicate that Baltimore City Police Department Officers Hunter and Laronde were involved in the investigation of this case.

In anticipation of testimony by one or both of the above officers at a motions hearing, which has not yet been scheduled, and at trial, which is currently scheduled for February 16, 2010, we request that you obtain from the Baltimore City Police Department all disciplinary files generated in connection with any complaint, civilian or departmental, regardless of the nature of the complaint and regardless of whether it has resulted in a sustained finding of wrongdoing or misconduct. Upon receiving the files, we request that you review them for any *allegation* involving official misconduct, excessive use of force, false statements, misrepresentations, stealing, misappropriation, or any dishonest act that could affect the credibility of the officer. We further request that you review the files for any allegation of racial discrimination or bias. Should the review of the files reveal such an allegation, we request that you promptly disclose all materials generated in connection with the investigation to the defense. Alternatively, we request that you notify us of the existence of the material so that the parties may request *in camera* review by the Court.

Additionally, I request that you inquire of the Baltimore City State's Attorney's Office whether any of the above named officers have been placed on a list of witnesses that Baltimore City prosecutors may not use at trial.

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We regard such materials from the officers' personnel files and the State's Attorney's Office to be *Brady* material that must be disclosed. Even unadjudicated acts may trigger confrontation rights under both the Sixth Amendment to the U.S. Constitution and Rule 608(b) of the Federal Rules of Evidence. *See Davis v. Alaska*, 415 U.S. 308 (1974) (finding defendant's 6th amendment confrontation rights violated when trial court precluded cross examination about witness' juvenile record and probation status); *United States v. Leake*, 642 F.2d 715 (4th Cir. 1981) (holding Rule 608(b) allows cross examination about unadjudicated acts of misconduct probative of untruthfulness).

I wish you a happy holiday with your family, and I will look forward to your response on this matter in the new year.

Respectfully,

KATHERINE TANG NEWBERGER
Assistant Federal Public Defender

cc: Court file